UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHRISTIAN R. THOMAS, NARASIMHA R. EDALA and JOEL I. MARCEY

Appeal No. 2006 - 1314
Application No. 09/823,084

ON BRIEF

Before LEVY, NAPPI, and FETTING, *Administrative Patent Judges.*
FETTING, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. §134 from the examiner's final rejection of claims 1 through 21, which are all of the claims pending in this application.

We AFFIRM.

BACKGROUND

The appellants' invention relates to a method for acquiring an internet service from a broker. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

> 1. A method comprising;
>
> registering an Internet service with a broker;
>
> transmitting metadata, to the broker, describing at least one communication proxy, including at least one supported protocol, a type, and a location of the communication proxy; and
>
> accessing, by the communication proxy, a web server to provide the Internet service to a client if the type of the communication proxy matches a communication proxy type specified by the client.

PRIOR ART

The prior art reference of record relied upon by the examiner in rejecting the appealed claims are:

Graham et al. (Graham)	6,594,700	July 15, 2003 (filed June 14, 1999)

REJECTION

Claims 1-21 stand rejected under 35 U.S.C. § 102(e) as being unpatentable as anticipated by Graham.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejection, we make reference to the examiner's answer (mailed July

21, 2005) for the reasoning in support of the rejection, and to appellants' brief (filed April 11, 2005) and supplemental appeal brief (filed March 7, 2006) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art reference, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations that follow.

Claims 1-21 rejected under 35 U.S.C. § 102(e) as being unpatentable as anticipated by Graham.

As to claims 1 through 5, we note that the appellants argue these claims as a group in p. 6 through 12 of the brief. Accordingly, we select claim 1 as representative of the group.

Graham describes a Universal Service Broker Interchange Mechanism (USBIM) as a coordinated set of components that provide interoperability among service discovery protocols, having service provider protocol adapter servlets that listen for service advertising requests and look for matching service providers [col. 2 lines 22 through 35]. Thus, because each internet service that is registered within the USBIM exists, it must have been registered with the USBIM, further evidenced by the registration described col. 6 lines 41 through 49. The request for service must necessarily contain metadata, which is simply data characterizing data, describing the communication proxy associated with the request, by virtue of the request itself. This metadata includes service, name and protocol [col. 7 lines 35 through 39] and implicitly the proxy itself.

The appellants argue that the examiner improperly equated Graham's service provider protocol adapter servlets with the invention's communication proxy provided to a broker by a service provider [Brief p. 7]; improperly equated Graham's client lookup mechanism with the invention's interaction mechanism between matching clients and service providers [Brief p. 8]; and equated Graham's duty of the client to provide a mechanism of interaction with the invention's duty of the provider [Brief, p. 11].

The examiner responds that, as to the first two arguments, Graham's protocol adapter servlets are for both the client and service provider and are provided by the USBIM, being a registry service, and thus support reading Graham's service provider protocol adapter servlets on the invention's communication proxy provided to a broker [Answer, p. 8]. As to the first and third arguments, the examiner responds that claim 1 is silent as to who provides the communication proxy [Answer, p. 9].

We first note that, as indicated by the examiner, claim 1 is indeed silent as to who provides the proxy. We next note that the USBIM client protocol adapter servlets listen for client lookup requests and look up a matching service provider [col. 2 lines 37 through 39]. This results in an interchange mechanism [col. 7 lines 32 through 34], i.e. a standing in by one for another, which is a proxy. We further note that claim 1 requires that metadata describe only a proxy, a protocol, an uncharacterized type, and a proxy location, and that, as noted above, the request for service contains metadata, which is simply data characterizing data, describing the communication proxy associated with the request, that includes service (i.e a type), name (implicitly identifying location within USBIM) and protocol [col. 7 lines 35 through 39] and implicitly the proxy itself. Accordingly we are persuaded that the examiner is correct that it is appropriate to equate reading

Graham's service provider protocol adapter servlets on the invention's communication proxy provided to a broker. Therefore we find the appellants' arguments unpersuasive and sustain the rejection as to claims 1 through 5.

As to claims 6, 10 through 12 and 17 through 19, we note that the appellants argue these claims as a group in p. 12 through 15 of the brief. Accordingly, we select claim 6 as representative of the group. The appellants essentially make the same arguments as to claims 1 through 5, which are unpersuasive for the same reasons as above. The appellants further argue that Graham does not download the proxy from a location specified by the metadata [Brief, p. 14]. The examiner responds that this is necessarily inherent by operation of such a proxy [Answer, p. 13].

We note that Graham's USBIM operates by means of servlets, which are programs that must inherently be loaded, i.e. downloaded from their storage, to operate. We note that the claims do not specify the source or destination of downloading, other than being from a location specified by the metadata. Because Graham's metadata necessarily specifies the protocol that must be used, USBIM inherently interprets this as a pointer to the location of the servlet's storage for loading.

Accordingly we are persuaded that the examiner is correct that Graham does download the proxy from a location specified by the metadata, this being necessarily inherent by operation of such a proxy. Therefore we find the appellants' arguments unpersuasive and sustain the rejection as to claims 6, 10 through 12 and 17 through 19.

As to claims 13 through 16, we note that the appellants argue these claims as a group in p. 15 through 17 of the brief. Accordingly, we select claim 13 as representative of the group. The appellants essentially make the same arguments as to claims 6, 10 through 12 and 17 through 19, which are unpersuasive for the same reasons as above. Thus, we sustain the rejection as to claims 13 through 16.

As to claims 7 through 9, we note that the appellants argue these claims as a group in p. 18 through 20 of the brief. Accordingly, we select claim 7 as representative of the group. The appellants argue that Graham is silent as to dynamic interacting [Brief, p. 20]. The examiner responds that Graham discloses dynamic interaction at col. 9 lines 17 through 25 [Answer, p. 15]. We note that the portion of Graham cited by the examiner does indeed describe interaction between the servlets and the client, which is fairly characterized as dynamic. Therefore we find the appellants' arguments unpersuasive and sustain the rejection as to claims 7 through 9.

Accordingly, we *sustain* the examiner's rejection of claims 1-21 as rejected under 35 U.S.C. § 102(e) as being unpatentable as anticipated by Graham.

CONCLUSION

To summarize,

- The rejection of claims 1-21 under 35 U.S.C. § 102(e) as being unpatentable as anticipated by Graham, is *sustained.*

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

STUART S. LEVY
Administrative Patent Judge

ROBERT E. NAPPI
Administrative Patent Judge

ANTON W. FETTING
Administrative Patent Judge

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